



DEPARTMENT OF TRANSPORTATION

[4910-EX-P]

Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2018-0347]

Commercial Driver's License Standards: Application for Exemption; Navistar, Inc.

(Navistar)

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of final disposition; granting of application for exemption.

SUMMARY: FMCSA announces its decision to grant an exemption to Navistar, Inc. (Navistar) and two drivers from the commercial driver's license (CDL) regulations for commercial motor vehicle (CMV) drivers, Mr. Thomas Nickels, Senior Vice President, Engineering Optimization, with MAN Truck & Bus SE (MAN) in Munich, Germany, and Mr. Lukas Walter, Senior Vice President, Engineering Powertrain for MAN, each of whom holds a valid German commercial license. MAN is partnering with Navistar to develop technological advancements in fuel economy and emissions reductions. Mr. Nickels and Mr. Walter need to test drive Navistar vehicles on U.S. roads to better understand product requirements in "real world" environments and verify results. Navistar believes that the requirements for a German commercial license ensure that operations under the exemption would likely achieve a level of safety equivalent to or greater than the level that would be obtained in the absence of the exemption.

DATES: This exemption is effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER] and expires [INSERT DATE 5 YEARS FROM PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES:

Docket: For access to the docket to read background documents or comments, go to www.regulations.gov at any time or visit Room W12-140 on the ground level of the West Building, 1200 New Jersey Avenue, SE, Washington, DC, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays. The on-line Federal Docket Management System (FDMS) is available 24 hours each day, 365 days each year.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to www.regulations.gov, as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at www.dot.gov/privacy.

FOR FURTHER INFORMATION CONTACT: Ms. Pearlie Robinson, FMCSA Driver and Carrier Operations Division; Office of Carrier, Driver and Vehicle Safety Standards; Telephone: 202-366-4325. E-mail: MCPSPD@dot.gov. If you have questions on viewing or submitting material to the docket, contact Docket Services, telephone (202) 366-9826.

SUPPLEMENTARY INFORMATION:**I. Public Participation**Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to www.regulations.gov and insert the docket number, “FMCSA-2018-0347” in the “Keyword” box and click “Search.” Next, click the “Open Docket Folder” button and choose the document to review. If you do not have access to the Internet, you may view the docket online by visiting the Docket Management Facility in Room W12-140 on the ground floor of the DOT

West Building, 1200 New Jersey Avenue, SE, Washington, DC 20590, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays.

II. Legal Basis

FMCSA has authority under 49 U.S.C. 31136(e) and 31315 to grant exemptions from the Federal Motor Carrier Safety Regulations. FMCSA must publish a notice of each exemption request in the **Federal Register** (49 CFR 381.315(a)). The Agency must provide the public an opportunity to inspect the information relevant to the application, including any safety analyses that have been conducted. The Agency must also provide an opportunity for public comment on the request.

The Agency reviews the safety analyses and the public comments and determines whether granting the exemption would likely achieve a level of safety equivalent to or greater than the level that would be achieved by the current regulation (49 CFR 381.305). The Agency's decision must be published in the **Federal Register** (49 CFR 381.315(b)) with the reason for the granting or denial, and, if granted, the specific person or class of persons receiving the exemption and the regulatory provision or provisions from which the exemption is granted. The notice must specify the effective period of the exemption (up to 5 years) and explain the terms and conditions of the exemption. The exemption may be renewed (49 CFR 381.300(b)).

III. Request for Exemption

Navistar has applied for an exemption for Mr. Thomas Nickels and Mr. Lukas Walter from 49 CFR 383.23, which prescribes licensing requirements for drivers operating CMVs in interstate or intrastate commerce. Both drivers are unable to obtain a CDL in any of the U.S. States due to their lack of residency in the United States. Copies of the exemption applications are included in the docket referenced at the beginning of this notice.

The exemption would allow these drivers to operate CMVs in interstate or intrastate commerce to help develop technology advancements in fuel economy and emissions reductions. Mr. Nickels and Mr. Walter need to drive Navistar vehicles on public roads to better understand product requirements for these systems in “real world” environments in the U.S. market. According to Navistar, both drivers will drive typically for no more than 8 hours per day for 2 consecutive days with 50 percent of the test driving on two-lane State highways and 50 percent on Interstate highways. The driving will consist of no more than 600 miles during a two-day period, at 300 miles per day. In all cases, drivers will be accompanied by a U.S. CDL holder familiar with the routes to be traveled.

Mr. Nickels and Mr. Walter hold valid German commercial licenses and, as explained by Navistar in its exemption request, the requirements for that license ensure that, operating under the exemption, these drivers would likely achieve a level of safety equivalent to or greater than the level that would be achieved by the current regulation. Furthermore, Navistar asserts that both drivers are familiar with the operation of CMVs worldwide. Navistar requests that the exemption cover the maximum allowable duration of 5 years.

IV. Method to Ensure an Equivalent or Greater Level of Safety

As for an equivalent level of safety, Navistar states that the process for obtaining a German commercial license is comparable to, or as effective as, the requirements of part 383, and adequately assesses the driver’s ability to operate CMVs in the U.S. The Agency recently granted one of Navistar’s drivers a similar exemption [April 15, 2019 (84 FR 15283)]. Since 2015, the Agency has granted Daimler drivers similar exemptions: [March 27, 2015 (80 FR 16511); October 5, 2015 (80 FR 60220); December 7, 2015 (80 FR 76059); December 21, 2015 (80 FR 79410)]; July 12, 2016 (81 FR 45217); July 25, 2016 (81 FR 48496); August 17, 2017

(82 FR 39151); September 10, 2018 (83 FR 45742)]. The Agency has not received any information or reports indicating there have been safety performance problems with individuals holding German commercial licenses who operate CMVs on public roads in the United States.

V. Public Comments

On June 19, 2019, FMCSA published notice of this application and requested public comments (84 FR 28618). No comments were submitted to the docket.

VI. FMCSA Decision

Based upon the merits of this application, including Mr. Nickels' and Mr. Walter's extensive driving experience and safety records, FMCSA has concluded that the exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption, in accordance with § 381.305(a).

VII. Terms and Conditions for the Exemption

FMCSA grants Navistar, Mr. Thomas Nickels, and Mr. Lukas Walter an exemption from the CDL requirement in 49 CFR 383.23 to allow Mr. Nickels and Mr. Walter to drive CMVs in this country without a State-issued CDL, subject to the following terms and conditions:

- (1) The drivers and carrier must comply with all other applicable provisions of the FMCSRs (49 CFR parts 350-399);
- (2) The drivers must be in possession of the exemption document and a valid German commercial license;
- (3) The drivers must be employed by and operate the CMV within the scope of duties for Navistar or its partner MAN;
- (4) At all times while operating a CMV under this exemption, the drivers must be accompanied by a holder of a U.S. CDL who is familiar with the routes traveled;

(5) Navistar must notify FMCSA in writing within 5 business days of any accident, as defined in 49 CFR 390.5, involving these drivers; and

(6) Navistar must notify FMCSA in writing if these drivers are convicted of a disqualifying offense under § 383.51 or § 391.15 of the FMCSRs.

In accordance with 49 U.S.C. 31315 and 31136(e), the exemption will be valid for 5 years unless revoked earlier by the FMCSA. The exemption will be revoked if:

- (1) Mr. Nickels or Mr. Walter fails to comply with the terms and conditions of the exemption;
- (2) the exemption results in a lower level of safety than was maintained before it was granted; or
- (3) continuation of the exemption would be inconsistent with the goals and objectives of 49 U.S.C. 31315 and 31136.

VIII. Preemption

In accordance with 49 U.S.C. 31315(d), as implemented by 49 CFR 381.600, during the period this exemption is in effect, no State shall enforce any law or regulation applicable to interstate or intrastate commerce that conflicts with or is inconsistent with this exemption with respect to a firm or person operating under the exemption.

Issued on: November 15, 2019

Jim Mullen

Deputy Administrator

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